

1 Thomas H. Bienert, Jr. (CA State Bar No. 135311)

2 Whitney Z. Bernstein (CA State Bar No. 304917)

BIENERT | KATZMAN PC

3 903 Calle Amanecer, Suite 350

4 San Clemente, California 92673

Telephone: (949) 369-3700

5 Facsimile: (949) 369-3701

Email: tbienert@bienertkatzman.com

6 wbernstein@bienertkatzman.com

7 *Attorneys for James Larkin*

8 Additional counsel listed on following page

9
10 UNITED STATES DISTRICT COURT

11 CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

12
13 **In the Matter of the Seizure of:**

14
15 Any and all funds held in Republic Bank of
16 Arizona Account(s) xxxx1889, xxxx2592,
xxxx1938, xxxx2912, and, xxxx2500.

Case No. 2:18-cv-06742-RGK (PJW)

17 [RELATED CASES

2:18-cv-08420; 2:18-cv-08423;

2:18-cv-08551; 2:18-cv-08555;

2:18-cv-08556; 2:18-cv-08565;

2:18-cv-08566; 2:18-cv-08568;

2:18-cv-08569; 2:18-cv-08570;

2:18-cv-08577; 2:18-cv-08578;

2:18-cv-08579; 2:18-cv-08588;

2:18-cv-08592; 2:18-cv-08723;

2:18-cv-08730; 2:18-cv-08747;

2:18-cv-08748; 2:18-cv-08749;

2:18-cv-08750; 2:18-cv-08753;

2:18-cv-08754; 2:18-cv-08759;

2:18-cv-08760; 2:18-cv-08763;

2:18-cv-08764; 2:19-cv-07032;

2:19-cv-07039; 2:19-cv-07044;

2:19-cv-07048]

26 **CLAIMANTS' RESPONSE TO**
27 **ORDER TO SHOW CAUSE**

1 Gary S. Lincenberg (CA State Bar No. 123058)
2 Ariel A. Neuman (CA State Bar. No. 241594)
3 Gopi K. Panchapakesan (CA State Bar No. 279586)
4 **BIRD, MARELLA, BOXER, WOLPERT, NESSIM,**
5 **DROOKS, LINCENBERG & RHOW, P.C.**
6 1875 Century Park East, 23rd Floor
7 Los Angeles, California 90067-2561
8 Telephone: (310) 201-2100
9 Facsimile: (310) 201-2110
10 Email: glincenberg@birdmarella.com
11 aneuman@birdmarella.com
12 gpanchapakesan@birdmarella.com
13 *Attorneys for John Brunst*

14 Paul J. Cambria, Jr. (CA State Bar No. 177957)
15 **LIPSITZ GREEN SCIME CAMBRIA LLP**
16 42 Delaware Avenue, Suite #120
17 Buffalo, NY 14202
18 Telephone: (716) 849-1333
19 Facsimile: (716) 855-1580
20 Email: pcambria@lglaw.com *Attorneys for Michael Lacey*

21 John K. Rubiner (CA State Bar No. 155208)
22 **BARTON, KLUGMAN & OETTING LLP**
23 350 South Grand Avenue, Suite 220
24 Los Angeles, CA 90071-3454
25 Telephone (213) 621-4000
26 Facsimile (213) 625-1832
27 Email: jrubiner@bkolaw.com

28 Bruce Feder (AZ State Bar No. 004832)
FEDER LAW OFFICE, P.A.
2930 E. Camelback Road, Suite 160
Phoenix, AZ 85016
Telephone: (602) 257-0135
Facsimile: (602) 954-8737
Email: bf@federlawpa.com
Attorneys for Scott Spear

1 Claimants Michael Lacey, James Larkin, John Brunst, Scott Spear, Medalist
 2 Holdings, Inc., Leeward Holdings, LLC, Camarillo Holdings, LLC, Vermillion
 3 Holdings, LLC, Cereus Properties, LLC, and Shearwater Investments, LLC
 4 (“Claimants”), by and through their undersigned counsel, file the instant Response to
 5 Order to Show Cause. The United States filed 31 civil forfeiture complaints over the
 6 course of the last year, with all defendant assets alleged to be proceeds from, or
 7 otherwise related to, the operation of Backpage.com, formerly an online publisher of
 8 third-party advertisements. The substantive allegations in each complaint are
 9 substantially similar or near-identical. The complaints also have other minor
 10 variations, as the United States made minor changes in the complaints over time.
 11 Claimants therefore agree that the 31 civil forfeiture complaints (with the exception
 12 of case no. 18-cv-06742-RGK-PJW) share sufficient common questions of fact or
 13 law such that it is logical for the Court to consolidate these actions for pretrial
 14 purposes under Fed. R. Civ. P. 42(a). Claimants request that the Court postpone any
 15 decision on whether, and to what extent, the civil forfeiture complaints should be
 16 consolidated for trial and judgment until the conclusion of pretrial proceedings.¹

17 Fed. R. Civ. Pro. 42(a) authorizes the Court to issue “any other orders to avoid
 18 unnecessary cost or delay.” If the Court consolidates the 31 civil forfeiture actions, it
 19 would be helpful if the Court were to direct the United States to file a single,
 20 consolidated master complaint, for the convenience of the Court and the parties. Such
 21 a complaint could provide an administrative summary of the claims brought by the
 22 United States in the 31 actions, with the individual complaints retaining their separate
 23 status. *See, e.g., In re General Motors LLC Ignition Switch Litig.*, 2015 WL 3619584, at *7-
 24 8 (S.D.N.Y. June 10, 2015). This would allow Claimants to respond to just one
 25 complaint, rather than burdening the Court with 31 separate responses.

26
 27
 28 ¹ The Court need not decide now whether “separate judgments should still issue in each of the Backpage Forfeiture Actions,” as the United States requests in its response. The Court can take that issue up at the conclusion of pretrial proceedings.

1 Finally, with respect to this case, 18-cv-06742-RGK-PJW, the pending motions
 2 in here are substantively and procedurally different from the 31 civil forfeiture
 3 complaints and are briefed and ready for argument and decision. Therefore, Claimants
 4 request that the Court *not* consolidate 18-cv-06742-RGK-PJW with the 31 civil
 5 forfeiture actions at this juncture.

6 DATED: December 9, 2019 Thomas H. Bienert, Jr.
 7 Whitney Z. Bernstein
 8 BIENERT KATZMAN, PLC

9 By: /s/ Whitney Z. Bernstein
 10 Whitney Z. Bernstein
 11 Attorneys for James Larkin

12 DATED: December 9, 2019 Gary S. Lincenberg
 13 Ariel A. Neuman
 14 Gopi K. Panchapakesan
 15 BIRD, MARELLA, BOXER, WOLPERT,
 16 NESSIM, DROOKS, LINCENBERG &
 17 RHOW, P.C.

18 By: /s/ Ariel A. Neuman
 19 Ariel A. Neuman
 20 Attorneys for John Brunst

21 DATED: December 9, 2019 Paul J. Cambria, Jr.
 22 LIPSITZ GREEN SCIME CAMBRIA LLP

23 By: /s/ Paul J. Cambria, Jr.
 24 Paul J. Cambria, Jr.
 25 Attorneys for Michael Lacey
 26
 27
 28

1 DATED: December 9, 2019

John K. Rubiner
BARTON, KLUGMAN & OETTING LLP

3
4 By: /s/ John K. Rubiner
John K. Rubiner
Attorneys for Scott Spear

CERTIFICATE OF SERVICE

I certify that on this 9th day of December, 2019, I electronically transmitted a PDF version of this document to the Clerk of the Court, using the CM/ECF System, for filing and for transmittal of a Notice of Electronic Filing to the following CM/ECF registrants listed below.

s/ Toni Thomas
Toni Thomas

John J. Kucera, john.kucera@usdoj.gov
Daniel G. Boyle, daniel.boyle2@usdoj.gov
David W. Wiechert, dwiechert@aol.com
Gary S. Lincenberg, glincenberg@birdmarella.com
Ariel Neuman, aneuman@birdmarella.com
Gopi K. Panchapakesan, gpanchapakesan@birdmarella.com
John K. Rubiner, jrubiner@bkolaw.com
Paul J. Cambria, Jr., pcambria@lglaw.com
Whitney Z. Bernstein, wbernstein@bienertkatzman.com
Daniel J. Quigley, quigley@djqlc.com